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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/288,462	04/08/1999	RICHARD ALEXANDER HARRINGTON	777.222US1	7531

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EXAMINER
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LANIER, BENJAMIN E

ART UNIT	PAPER NUMBER
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2132

DATE MAILED: 04/14/2004

17

Please find below and/or attached an Office communication concerning this application or proceeding.

**Office Action Summary**

Application No.

09/288,462

Applicant(s)

HARRINGTON ET AL.

Examiner

Benjamin E Lanier

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☐ Responsive to communication(s) filed on 29 March 2004.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 1-24, 26, 31-33, 35 and 36 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-24, 26, 31-33, 35, 36 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 24 January 2003 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- 11) ☐ The proposed drawing correction filed on \_\_\_\_\_ is: a) ☐ approved b) ☐ disapproved by the Examiner.  
If approved, corrected drawings are required in reply to this Office action.
- 12) ☐ The oath or declaration is objected to by the Examiner.

**Priority under 35 U.S.C. §§ 119 and 120**

- 13) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).  
a) ☐ All b) ☐ Some \* c) ☐ None of:  
1. ☐ Certified copies of the priority documents have been received.  
2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.  
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).  
\* See the attached detailed Office action for a list of the certified copies not received.
- 14) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application).  
a) ☐ The translation of the foreign language provisional application has been received.
- 15) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

**Attachment(s)**

- 1) ☒ Notice of References Cited (PTO-892) 4) ☐ Interview Summary (PTO-413) Paper No(s). \_\_\_\_\_
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948) 5) ☐ Notice of Informal Patent Application (PTO-152)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449) Paper No(s) \_\_\_\_\_. 6) ☐ Other: \_\_\_\_\_

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## **DETAILED ACTION**

### ***Response to Amendment***

1. Applicant's amendment of claims 1-3, 9, 15, 18, cancellation of claims 25, 34, and addition of claims 35 and 36 has been fully considered and is entered.

### ***Response to Arguments***

2. Applicant's arguments, see paper 16, filed 29 March 2004, with respect to claims 1-26, 31-34 have been fully considered and are persuasive. The rejections of 1-26, 31-34 with regards to Yoshida have been withdrawn.

### ***Claim Rejections - 35 USC § 102***

3. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

4. Claims 1-3, 8-11, 14-16, 18-20, 22-24 are rejected under 35 U.S.C. 102(b) as being anticipated by Rubin, U.S. Patent No. 5,530,752. Referring to claims 1-3, 8-10, 14-16, 18, 19, 22-24, Rubin discloses a protected software system wherein software is delivered encrypted in a software package (Col. 5, lines 6-30), which meets the limitation of an encrypted software module, with a decryption key (Fig. 3, 305), which meets the limitation of a decryption key to decrypt the encrypted software module, and a version number of the software module (Fig. 3, 303), which meets the limitation of a database containing identification of trigger files and including decryption keys. In order for the user to obtain access to the encrypted software, the

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transformer (setup program)(Col. 6, lines 2-6), which meets the limitation of an executive for using the decryption key to decrypt the encrypted software module, reads the version number from the Executable Object Code System Program to identify what program the user is licensed to use (Col. 6, lines 25-53), which meets the limitation at least one of a set of trigger files is stored on a computing system, wherein each of the trigger files indicates authorization to install the encrypted software module.

Referring to claims 11, 20, Rubin discloses that the transformer can retrieve the version number from the License Manager (Col. 6, lines 44-53), which meets the limitation of retrieving the loaded trigger file from an Internet website.

***Claim Rejections - 35 USC § 103***

5. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

The factual inquiries set forth in *Graham v. John Deere Co.*, 383 U.S. 1, 148 USPQ 459 (1966), that are applied for establishing a background for determining obviousness under 35 U.S.C. 103(a) are summarized as follows:

1. Determining the scope and contents of the prior art.
2. Ascertaining the differences between the prior art and the claims at issue.
3. Resolving the level of ordinary skill in the pertinent art.
4. Considering objective evidence present in the application indicating obviousness or nonobviousness.

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6. Claims 4, 6, 12, and 21 are rejected under 35 U.S.C. 103(a) as being unpatentable over Rubin, U.S. Patent No. 5,530,752, in view of Davis, U.S. Patent No. 6,058,478. Referring to claim 4, Rubin discloses a protected software system wherein software is delivered encrypted in a software package (Col. 5, lines 6-30), which meets the limitation of an encrypted software module, with a decryption key (Fig. 3, 305), which meets the limitation of a decryption key to decrypt the encrypted software module, and a version number of the software module (Fig. 3, 303), which meets the limitation of a database containing identification of trigger files and including decryption keys. In order for the user to obtain access to the encrypted software, the transformer (setup program)(Col. 6, lines 2-6), which meets the limitation of an executive for using the decryption key to decrypt the encrypted software module, reads the version number from the Executable Object Code System Program to identify what program the user is licensed to use (Col. 6, lines 25-53), which meets the limitation at least one of a set of trigger files is stored on a computing system, wherein each of the trigger files indicates authorization to install the encrypted software module. Rubin does not disclose encrypting the decryption key. Davis discloses an encrypted public key through the use of a private key (Col. 3, lines 55-59). It would have been obvious to one of ordinary skill in the art at the time the invention was made to encrypt the decryption key in the protected software system of Rubin in order to authenticate the sender of the information as taught in Davis (Col. 3, lines 60-64).

Referring to claims 6, 12, and 21, Rubin does not disclose that the encrypted software module is a cryptographic software module. Davis discloses storing cryptographic programs (Abstract). It would have been obvious to one of ordinary skill in the art at the time the invention was made for the encrypted programs of Rubin to be cryptographic programs because there are

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restrictions on the use and distribution of cryptographic technology, as taught in Davis (Col. 1, lines 31-51), so the protected software system of Rubin would be ideal to control who has access to these cryptographic programs.

7. Claims 7 and 13 are rejected under 35 U.S.C. 103(a) as being unpatentable over Rubin, U.S. Patent No. 5,530,752, in view of Davis, U.S. Patent No. 6,058,478 as applied to claims 1, 6, 9, 12 above, and further in view of Elgamal, U.S. Patent No. 5,825,890. Referring to claims 7 and 13, Davis does not disclose the cryptographic programs being dynamic link libraries (DLL) for providing a secure socket layer (SLL). Elgamal discloses applications that employ a Winsock DLL in conjunction with the SLL library (Col. 12, lines 30-34). It would have been obvious to one of ordinary skill in the art at the time the invention was made for the cryptographic programs of Davis to employ dynamic link libraries in conjunction with a secure socket layer library in order to achieve a high security communication line in the application program as taught in Elgamal (Col. 12, lines 34-48).

8. Claims 5 and 17 are rejected under 35 U.S.C. 103(a) as being unpatentable over Rubin, U.S. Patent No. 5,530,752, in view of Scott, U.S. Patent N. 5,199,073. Referring to claims 5 and 17, Rubin discloses a protected software system wherein software is delivered encrypted in a software package (Col. 5, lines 6-30), which meets the limitation of an encrypted software module, with a decryption key (Fig. 3, 305), which meets the limitation of a decryption key to decrypt the encrypted software module, and a version number of the software module (Fig. 3, 303), which meets the limitation of a database containing identification of trigger files and including decryption keys. In order for the user to obtain access to the encrypted software, the transformer (setup program)(Col. 6, lines 2-6), which meets the limitation of an executive for

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using the decryption key to decrypt the encrypted software module, reads the version number from the Executable Object Code System Program to identify what program the user is licensed to use (Col. 6, lines 25-53), which meets the limitation at least one of a set of trigger files is stored on a computing system, wherein each of the trigger files indicates authorization to install the encrypted software module. Rubin does not disclose generating hash values for each decryption key in the database. Scott discloses generating a hash value from the key value corresponding to database addresses (Col. 1, lines 11-16 & Col. 2, lines 3-10). It would have been obvious to one of ordinary skill in the art at the time the invention was made to generate hash values in the databases of Rubin for the decryption keys because the generation of hash values is a technique used in many areas of data processing and data encryption as taught in Scott (Col. 1, lines 11-16).

9. Claims 26, 31, 33 are rejected under 35 U.S.C. 103(a) as being unpatentable over Rubin, U.S. Patent No. 5,530,752, in view of Yoshida, U.S. Patent No. 6,075,862. Referring to claims 26, 31, 33, Rubin discloses a protected software system wherein software is delivered encrypted in a software package (Col. 5, lines 6-30), which meets the limitation of an encrypted software module, with a decryption key (Fig. 3, 305), which meets the limitation of a decryption key to decrypt the encrypted software module, and a version number of the software module (Fig. 3, 303), which meets the limitation of a database containing identification of trigger files and including decryption keys. In order for the user to obtain access to the encrypted software, the transformer (setup program)(Col. 6, lines 2-6), which meets the limitation of an executive for using the decryption key to decrypt the encrypted software module, reads the version number from the Executable Object Code System Program to identify what program the user is licensed

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to use (Col. 6, lines 25-53), which meets the limitation at least one of a set of trigger files is stored on a computing system, wherein each of the trigger files indicates authorization to install the encrypted software module. Rubin does not disclose the software package containing multiple versions of software programs. Yoshida discloses a software distribution system wherein a software package contains a demonstration version and a full version that is encrypted. If the user does not have the proper authorization to access the full version then the demonstration version is installed. If the user subsequent obtains proper authorization then the full-encrypted version is decrypted and installed on the users terminal (Col. 2, lines 6-55), which meets the limitations of loading a different version of the software module onto the computing system when the trigger file is not stored on the computing system, determining which version of the software module to install, wherein the different versions have different threshold encryption strengths. It would have been obvious to one of ordinary skill in the art at the time the invention was made for the protected software system of Rubin to have software packages with multiple versions in them in order for the software vendor to save on cost required for production and distribution of individual software packages as taught in Yoshida (Col. 2, lines 6-9).

10. Claim 32 is rejected under 35 U.S.C. 103(a) as being unpatentable over Rubin, U.S. Patent No. 5,530,752, in view of Yoshida, U.S. Patent No. 6,075,862, as applied to claim 31, further in view of Patel, U.S. Patent No. 6,327,660. Referring to claim 32, Rubin does not disclose using 56-bit encryption. Patel discloses a secure communication method that utilizes 56-bit encryption (Col. 6, lines 12-15). It would have been obvious to one of ordinary skill in the art at the time the invention was made to use 56-bit encryption in the protected software system of



Rubin because 56-bit encryption is domestic strength as taught in Patel, and domestic strength is an encryption standard.

11. Claims 35, 36 are rejected under 35 U.S.C. 103(a) as being unpatentable over Rubin, U.S. Patent No. 5,530,752, in view of Davis, U.S. Patent No. 6,058,478 as applied to claims 1, 2 above, and further in view of Patel, U.S. Patent, No. 6,192,474. Referring to claims 35, 36, Rubin discloses a protected software system wherein software is delivered encrypted in a software package (Col. 5, lines 6-30), which meets the limitation of an encrypted software module, with a decryption key (Fig. 3, 305), which meets the limitation of a decryption key to decrypt the encrypted software module, and a version number of the software module (Fig. 3, 303), which meets the limitation of a database containing identification of trigger files and including decryption keys. In order for the user to obtain access to the encrypted software, the transformer (setup program)(Col. 6, lines 2-6), which meets the limitation of an executive for using the decryption key to decrypt the encrypted software module, reads the version number from the Executable Object Code System Program to identify what program the user is licensed to use (Col. 6, lines 25-53), which meets the limitation at least one of a set of trigger files is stored on a computing system, wherein each of the trigger files indicates authorization to install the encrypted software module. Rubin does not disclose encrypting the decryption key. Davis discloses an encrypted public key through the use of a private key (Col. 3, lines 55-59). It would have been obvious to one of ordinary skill in the art at the time the invention was made to encrypt the decryption key in the protected software system of Rubin in order to authenticate the sender of the information as taught in Davis (Col. 3, lines 60-64). Davis does not disclose using a hash value as an encryption key. Patel discloses using the hash of authentication information as

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an encryption key (Col. 2, lines 37-59). It would have been obvious to one of ordinary skill in the art at the time the invention was made to use a hash value as an encryption key in Davis in order to add security prior to establishing the key as taught in Patel (Col. 3, lines 36-38).

12. Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.

### ***Conclusion***

13. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Benjamin E Lanier whose telephone number is 703-305-7684. The examiner can normally be reached on M-Th 7:30am-5:00pm, F 7:30am-4pm.

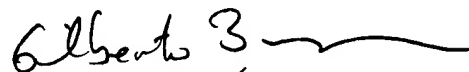
If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Gilberto Barron can be reached on (703)305-1830. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

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Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).



Benjamin E. Lanier



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